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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 000441

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DEPARTMENT PASS TO AID/OTI (RPORTER)

E.O. 12958: DECL: 03/23/2029  
TAGS: [PGOV](#) [KDEM](#) [VE](#)  
SUBJECT: OPPOSITION LEADER ROSALES STILL IN HIDING AS  
CHARGES MOUNT

REF: CARACAS 438

CARACAS 00000441 001.2 OF 002

Classified By: POLITICAL COUNSELOR FRANCISCO FERNANDEZ,  
FOR REASON 1.4(D)

11. (C) Summary: Maracaibo mayor and former opposition Presidential candidate Manuel Rosales remains in hiding, probably in Zulia State, a week after he was rumored to have fled the country in pursuit of political asylum. His lawyers provided Polcouns April 2 with a step-by-step legal rebuttal of the charges against him, which they claim were first raised and dismissed in 2006 for lack of evidence. Subsequently, an arrest warrant was issued for him for conspiracy to commit homicide April 3 after protesters were injured allegedly by his supporters in front of his Maracaibo office. His selective prosecution and the arrest of former Defense Minister Raul Baduel (reftel) indicates an unprecedented crackdown on the opposition and could herald a descent into full-fledged authoritarianism. End Summary.

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OLD CHARGES BROUGHT ANEW  
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12. (C) Rosales's legal team provided Polcouns April 2 with a written explanation of the illegality of the charges being brought against him by the state. He has been summoned to appear in court on April 20 to be tried. They point out that the Comptroller General brought the same charges against Rosales in 2006, alleging he had illicitly enriched himself to the tune of 147,000 BsF (\$68,372 USD at the official rate). His lawyers presented the same argument then as now -- that the "extra" income was from his activities as a rancher, which they claim is of a "public and well-known manner for more than 30 years." A subsequent investigation by the Zulia State Public Ministry was closed, without prejudice, due to lack of evidence in June 2006.

13. (C) Rosales' lawyers claim that Chavez unconstitutionally re-opened the case in the run-up to the 2008 local elections when he began publicly calling for Rosales' arrest, which they allege was followed by direct orders from Miraflores to dig up the archived case. They argue that doing so violates Article 315 of the Organic Code of Penal Process, which stipulates that after an investigation has been closed for lack of evidence, it can only be re-opened at the whim of the accused or if the government (or plaintiff) uncovers new evidence. The Zulia State prosecutor, Katiukska Plaza, presented a formal accusation against Rosales last month based on "new evidence" she gathered from sworn testimony from the Chavista former

mayor of Maracaibo, Gian Carlo Di Martino, and Zulia Secretary General of the pro-government Patria Para Todos (PPT) party Jose Luis Pirela -- hardly impartial witnesses, who apparently provided little more than their personal opinion that Rosales was corrupt.

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AND NOW MURDER, TOO  
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¶4. (SBU) Zulia State Labor Inspector William Portillo denounced Rosales April 2 for conspiracy to commit homicide after six workers were injured when they clashed with alleged Rosales supports in a protest in front of the Maracaibo mayor's offices on April 1. The workers were protesting the loss of thousands of jobs since Rosales was elected to his post in November 2008.

¶5. (C) The lawyers claim that they have advised Rosales to remain in hiding in Zulia and allege that he is arguing that he should come out into the open to fight the charges. His wife, Evelyn Trejo de Rosales, announced April 5 during a Sunday mass in Zulia that Rosales belongs not to his family but "only to Venezuela," but she pleaded publicly that he not present himself before the court on April 20. In a special session April 3, the Maracaibo municipal council voted to grant Rosales 90 days to "separate" from office and focus on his case, and appointed his Director of International Relations, Elias Matta, to assume his mayoral duties in the interim. Doing so defuses the Chavista President of the National Assembly Celia Flores' threats that since Rosales is in hiding, he is not fulfilling his official duties as mayor and so the National Electoral Council should hold elections to fill his slot.

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OTHER POLITICAL PROSECUTIONS?  
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¶6. (C) A lower court in Yaracuy State ordered April 5 the arrest of Chavista dissident and former Yaracuy governor Carlos Gimenez for refusing to appear for three court dates. He is being prosecuted on charges of corruption from 2004 to 2007, during his tenure as a United Socialist Party of Venezuela (PSUV) governor. Although his case began several months ago shortly before the November 2008 local elections, the timing of the arrest warrant issuance lends a political air -- particularly since he is being widely touted as a PSUV dissident in the local press.

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COMMENT  
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¶7. (C) It is unclear why Rosales has not yet offered some personal statement in his own defense, written or otherwise, nor why his legal team has not publicized what they argue is the GBRV's flimsy legal standing against their client. By driving Rosales into hiding, Chavez has been effective in undoing perhaps the most visible leader of the opposition, crossing what many pundits have gauged a redline between rhetorical threats and actually taking repressive action. Rosales now faces the unhappy choice between submitting to what will almost certainly be a political show trial, or avoiding his April 20 court date and either fleeing the country or attempting to stay in hiding. The accusations against Rosales, Baduel and Gimenez, combined with the approval of a law stripping powers from the opposition mayor of Caracas could herald the final turn towards authoritarian rule by this regime. End Comment.

CAULFIELD